

ESTTA Tracking number: **ESTTA282723**

Filing date: **05/08/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--|
| Proceeding | 91189172 |
| Party | Defendant Alapay Cellars, Inc. |
| Correspondence Address | MATTHEW W. BAAB MCELROY, SULLIVAN & MILLERR, LLP 1201 SPYGLASS DR STE 200 AUSTIN, TX 78746-6941 dkgpto@intprop.com |
| Submission | Withdrawal Of Application |
| Filer's Name | Dwayne K. Goetzel |
| Filer's e-mail | dkgpto@intprop.com |
| Signature | /Dwayne K. Goetzel/ |
| Date | 05/08/2009 |
| Attachments | Express Abandon.pdf (4 pages)(127000 bytes) |

| | | |
|----------------------|-----------|--|
| MASI AGRICOLA S.P.A. | | Opposition No.: 91189172 Serial No.: 77/531,502 |
| | Opposer | |
| | v. | |
| ALAPAY CELLARS, INC. | | |
| | Applicant | |

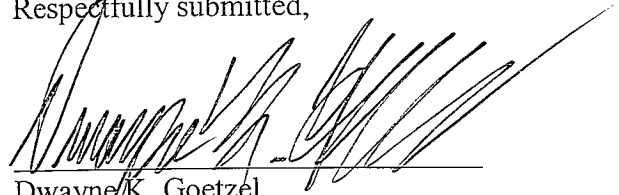
Applicant, Alapay Cellars, Inc. (“Applicant”), a California corporation having a principal place of business at 415 1st Street, Avila Beach, California 93424, by and through its attorney of record, hereby files this express abandonment of the above-referenced application, pursuant to 37 C.F.R. § 2.68, and would show the following.

On or about April 27, 2009, Applicant reached an agreement with Masi Agricola S.p.a., which had filed an opposition against the registration of Applicant's MASIX mark, Serial No. 77/531,502. Pursuant to the terms of that agreement, Applicant hereby expressly abandons its application for registration of the MASIX mark, Serial No. 77/531,502.

* * *

Accordingly, and pursuant to 37 C.F.R. § 2.68 and T.M.E.P. § 1718.01, Applicant respectfully requests that the above-referenced application be abandoned in accordance with the terms hereinabove.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dwayne K. Goetzel', written over a horizontal line.

Dwayne K. Goetzel
Attorney for Applicant

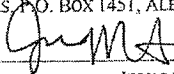
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, Texas 78767-0398
(512) 853-8800 – Telephone
(512) 853-8801 – Facsimile

Date: May 8, 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATIONS OF: Alapay Cellars, Inc.

| MARK & CLASS | U.S. TRADEMARK SERIAL NO. | ATTORNEY DOCKET |
|-------------------------------------|---------------------------|-----------------|
| MASIX | 77/531,502 | 6321-00100 |
| COME ON IN ... THE WATER'S WINE! | 76/639,910 | 6321-00300 |

| |
|---|
| <p align="center">CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. § 1.10</p> <p>"Express Mail" mailing label number: <u>EV235042001US</u></p> <p>Date of Deposit: <u>MAY 1, 2009</u></p> <p>I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 C.F.R. §1.10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO: COMMISSIONER FOR TRADEMARKS, P.O. BOX 1451, ALEXANDRIA, VA 22313-1451.</p> <p align="center"> JESSICA HIXSON</p> |
|---|

POWER OF ATTORNEY

Alapay Cellars, Inc. hereby revokes all previous powers of attorney and appoints Dwayne K. Goetzel, Eric B. Meyertons, Jeffrey C. Hood, Robert C. Kowert, Robert P. Hough, Rory D. Rankin, Ryan Beard, Chris Thompson, Dean Munyon, Alex Courtade, Chris Drymalla and Eric Min, each members of the bar of the State of Texas, and B. Noël Kivlin, member of the bar of the State of California, as its attorneys and attorney, with full power of substitution and revocation, to prosecute applications, to make alterations and amendments, to transact all related business in the Patent and Trademark Office, to receive the Certificate of Registration, and to handle all matters in the Patent and Trademark Office in connection with any registration after issuance.



05-04-2009

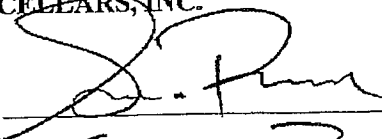
Please direct all communications concerning the registration to:

Dwayne K. Goetzel
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL P.C.
P.O. Box 398
Austin, Texas 78767-0398
(512) 853-8800 (telephone)
(512) 853-8801 (facsimile)

Enclosed are the instant original and one (1) copy for distribution in the Patent and Trademark Office.

Please date-stamp and return the enclosed postcard to acknowledge receipt of this document.

ALAPAY CELLARS, INC.

Signature: 

Printed Name: SCOTT A. REMMENG A

Title: PRES. DONT, Alapay Cellars, Inc.

Date: MAY 1, 2009